

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x

SHAUL LEVY ,

Case No.: 17-cv-4022

Plaintiff,

-against-

LAW OFFICES OF J. HENRY NIERMAN;  
J. HENRY NIERMANNNNN; and  
RECOVERY OF JUDGMENT LLC,

Defendant(s).

-----x

**DECLARATION OF ARTHUR SANDERS IN OPPOSITION TO PLAINTIFF'S**

**SUPPLEMENTAL REQUEST FOR ADDITIONAL ATTORNEY FEES**

Arthur Sanders, an attorney duly licensed to practice law in the state of New York and admitted to practice in this court, affirms the following under the penalty of perjury, as follows:

1. I am a shareholder in the law firm of Barron & Newburger, P.C., and I am familiar with the facts and circumstances of this case.
2. This declaration is made in Opposition to plaintiff's request for an additional award of \$48,240.00 in attorney fees.
3. Just as plaintiff's declaration is offered as a supplement only, the instant declaration is also filed as a supplement to defendants' previous Opposition to Plaintiff's Motion for Attorney Fees and Costs.

**PROCEDURAL HISTORY FOLLOWING AN INQUEST HEARING**

4. Defendants do not object to the declarations contained in paragraphs 5-17 of plaintiff's recent filing. Defendants' previous deadline to file its Opposition to plaintiff's supplementation, was June 19, 2024, but

the deadline was extended to June 28, 2024, and is being filed in a timely fashion.

**SUPPLEMENTAL REQUEST for ATTORNEYS' FEES**

5. Defendants continue to take issue with plaintiff's characterization of defendants "litigation choices". The impediment to resolution of this litigation has always been plaintiff's counsel's unwillingness to reconsider its unreasonable attorney fee demands. In defendants' view, it has been plaintiff, and not the defendants who have prolonged the instant litigation.

6. Defendants' Opposition to plaintiff's original Motion for Attorney Fees was filed on July 12, 2023, and the subsequent motion practice has not changed the validity of defendants' Opposition.

7. The instant response, consistent with defendants' previous Opposition to plaintiff's motion for attorney fees, does not challenge the rates of plaintiff's law firm or the individual attorneys billing time on plaintiff's behalf and takes no issue with the qualifications of those attorneys. Defendants' Opposition has always been based upon plaintiff's lack of success, as documented by the \$500.00 award previously Ordered by the District Court and the dismissal of a number of plaintiff's claims. The award could conceivably increase by \$3,000.00 based upon Judge Roman's recent decision on standing but that does not justify an attorney fee award approaching \$200,000.00.

8. As defendants previous filing points out [DE 119] plaintiff's early filings, regarding damages and fees were clearly slanted towards attorney fee recovery and barely mentioned actual damages (see DE 24).

9. It is plaintiff's counsel that resisted defendants' application to open up their default in 2018. The Opposition was based

almost exclusively on plaintiff's attorney fees and not on plaintiff's damages (DE 38).

10. On page 7 of Defendants' Memorandum of Law in Opposition to Plaintiff's Motion for Attorney Fees and Costs, the following point was made and continues to be of the utmost importance:

"Plaintiff's counsel is now seeking a massive amount of attorney fees despite his very insignificant recovery. Most of plaintiff's claims were dismissed on Summary Judgment. He prevailed on one of his FDCPA claims while having other claims under the FDCPA dismissed and having his New York GBL §349 claim dismissed as well." (DE 119 @ page 7-8).

11. Plaintiff's request for attorney fees remains overly ambitious and disproportionate to plaintiff's recovery.

Pursuant to 28 U.S.C. §1746, I declare under the penalty of perjury that the foregoing is true and correct.

Dated: New City, New York  
June 27, 2024



---

ARTHUR SANDERS, ESQ. (AS1210)  
BARRON & NEWBURGER, P.C.  
Attorneys for defendants  
30 South Main Street  
New City, NY 10956  
845-499-2990